

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

Bluefield Division

TYLER DWAYNE NEW,

Plaintiff,

v.

Civil Action No.: 1:24-cv-00212

**METROPOLITAN LIFE INSURANCE
COMPANY; CLEVELAND-CLIFFS
PRINCETON COAL, INC.; TWIN STATE
MINING, INC.; and XMV, INC.**

**PLAINTIFF’S RESPONSE TO DEFENDANTS’
MOTION TO DISMISS PLAINTIFF’S COMPLAINT**

Defendants’ Motion to Dismiss Plaintiff’s Complaint, [ECF 5,6] which was filed on May 1, 2024, argues that Plaintiff’s state law claims should be dismissed because they are preempted by The Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1001 *et seq.* (“ERISA”). Defendants further argue that this Court should dismiss Defendants Cleveland-Cliffs Princeton Coal, Inc., Twin Mining, Inc., and XMV, Inc. because there are no claims against any of these entities. Lastly, Defendants argue that Plaintiff’s remaining claim, breach of contract, should be converted into a federal claim against Defendant Metropolitan Life Insurance Company (“MetLife”) to recover ERISA-governed plan benefits.

Upon careful review of Defendants’ motion and applicable caselaw, Plaintiff agrees that his state law claims are preempted by ERISA, and that his breach of contract claim should be converted into an ERISA claim. Plaintiff also agrees that his declaratory judgment claim, which asks the Court to declare the respective rights and obligations of the parties as to insurance coverage, is preempted by ERISA. Lastly, Plaintiff agrees that his claims against Defendants

Cleveland-Cliffs Princeton Coal, Inc., Twin Mining, Inc., and XMV, Inc., should be dismissed (without prejudice) because there are no claims pled against any of these entities.

Accordingly, Plaintiff withdraws his state law claims and requests that his remaining claim for breach of contract be converted into a federal claim against Defendant MetLife to recover ERISA-governed plan benefits. Plaintiff also moves to dismiss, without prejudice, his claims against Defendants Cleveland-Cliffs Princeton Coal, Inc., Twin Mining, Inc., and XMV, Inc.

Should this Court determine that Plaintiff must amend his Complaint to properly plead an ERISA claim against Defendant MetLife, Plaintiff respectfully moves the Court for leave to amend his Complaint as necessary.

**TYLER DWAYNE NEW,
By Counsel,**

/s/ Christopher B. Frost
Stephen P. New (WVSB #7756)
Christopher B. Frost (WVSB #9411)
Stephen New & Associates
430 Harper Park Drive
PO Box 5516
Beckley, WV 25801
T: (304) 250-6017
F: (304) 250-6012

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CERTIFICATE OF SERVICE

Undersigned counsel for Plaintiff hereby certifies that the foregoing *Plaintiff's Response to Defendants' Motion to Dismiss* was served upon all parties to this matter via the Court's CM/ECF system this 15th day of May, 2024.

/s/ Christopher B. Frost
Christopher B. Frost (WVSB #9411)